

REMARKS

In this Amendment, Applicant has cancelled Claims 38, 42 and 44, without prejudice or disclaimer, and amended Claims 1 – 7, 10 – 28, 32 – 37, 39 and 43 to specify different embodiments of the present invention and overcome the rejection. It is respectfully submitted that no new matter has been introduced by the amended claims. All claims are now present for examination and favorable reconsideration is respectfully requested in view of the preceding amendments and the following comments.

REJECTIONS UNDER 35 U.S.C. § 101:

Claim 44 has been rejected under 35 U.S.C. § 101 as allegedly failing to define a patentable subject matter.

It is respectfully submitted that in view of the currently presented amendments, the rejection has been overcome. More specifically, Claim 44 has been cancelled.

Therefore, the rejection under 35 U.S.C. § 101 has been overcome. Accordingly, withdrawal of the rejections under 35 U.S.C. § 101 is respectfully requested.

REJECTIONS UNDER 35 U.S.C. § 112 SECOND PARAGRAPH:

Claims 3 – 7, 12 – 18, 24 – 28, 32 – 39 and 44 have been rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is respectfully submitted that the Claims 3 – 7, 12 – 18, 24 – 28, and 32 – 39 have been amended to clearly point out and define the embodiment of the present invention. Claim 44 has been cancelled. More specifically, the rejected terms and informalities pointed by the Examiner have been corrected.

Therefore, the rejection under 35 U.S.C. § 112, second paragraph, has been overcome. Accordingly, withdrawal of the rejections under 35 U.S.C. § 112, second paragraph, is respectfully requested.

REJECTIONS UNDER 35 U.S.C. §102:

Claims 1 – 5 and 44 have been rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Young (US 4,073,633), hereinafter Young.

Applicant traverses the rejection and respectfully submits that the embodiments of present-claimed invention are not anticipated by Young. According to MPEP 2131, "A claim is anticipated only if **each and every element** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Claim 1 defines particulate urea coated with wet ground sulphur (emphasis added). In addition, Claim 3 defines that the wet ground sulphur has been dewatered. Claims 4 – 5 further specify that the dewatering has been to 8 to 15% moisture, or 5 to 20% moisture, respectively. The portion of Young as pointed out by the Examiner does not specifically disclose these specific features as defined in the claims. The cited portion is as follows:

The acid generators can be combined with urea in any manner sufficient to produce a particle-form combination in which the several components are closely associated. Thus the sulfur, salts or acids can be incorporated into the urea prills or pellets, or they can be added after particle formation by any one of several coating procedures. Thus the urea particles may be coated or sprayed with concentrated aqueous solutions of the salts, acids or combinations thereof. This practice is not presently preferred since it is complicated by the difficulty of maintaining particle separation in the presence of excess water. A simpler practice involves coating the urea particles with solutions or dispersions of the salts, acids or sulfur in a non-aqueous medium such as a hydrocarbon oil or melted wax. This approach also has its drawbacks since the oil-coated particles tend to agglomerate due to adhesion of the oil film. It is also limited due to the minor amount of acid generating material that can be incorporated by that approach (emphasis added).

Nowhere does it disclose the wet ground sulphur as claimed. Sulphur is not disclosed in Young as even being applied to urea simply reliant upon wet sulphur or sulphur delivered out of dispersion **without oil or wax**. Therefore, the rejection under 35 U.S.C. §102 has been overcome. Accordingly, withdrawal of the rejections under 35 U.S.C. §102 is respectfully requested.

REJECTIONS UNDER 35 U.S.C. § 103:

Claims 6 – 43 have been rejected under 35 U.S.C. §103 as allegedly being unpatentable over Young in view of Patra or Hawkins or Omilinsky.

Applicant traverses the rejection and respectfully submits that the embodiments of present-claimed invention as amended are not obvious over the cited references. According to MPEP 2143.03, to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

At first, the significant difference from Young has been indicated above. In addition, as pointed out in the specification, the wet ground sulphur of the present invention has achieved unexpected advantages over sulphur, otherwise of a similar size, that is delivered dry, or with adhesive materials, or even out of a solution or dispersion onto the urea. Because cited references discloses a different composition and a different process from the present invention as defined, there is no motivation to combine cited references to achieve the present invention. The significant improvement has been explained in the specification of the present invention. Thus the present invention is not obvious to a person of ordinary skill in the art at time of its invention.


Therefore, the rejection under 35 U.S.C. § 103 has been overcome. Accordingly, withdrawal of the rejections under 35 U.S.C. § 103 is respectfully requested.

Having overcome all outstanding grounds of rejection, the application is now in condition for allowance, and prompt action toward that end is respectfully solicited.

Respectfully submitted,

JACOBSON HOLMAN PLLC

Date: May 19, 2008
(202) 638-6666
400 Seventh Street, N.W.
Washington, D.C. 20004
Atty. Dkt. No.: P69287US1

By 
John C. Holman
Registration No. 22,769